

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PHILIP J. LUCAS and LEO W. MAYER

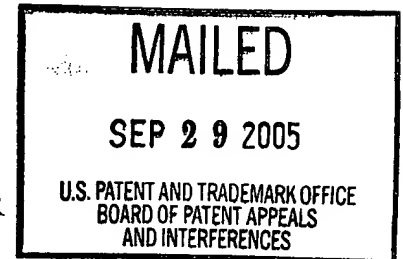
Application No. 09/809,678

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 11, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

On June 10, 2003, an Examiner's Answer was mailed, responding to the original Appeal Brief filed March 24, 2004. A review of the Examiner's Answer reveals that it lacks compliance pertaining to the required appeals conference, see Manual of Patent Examining Procedure (MPEP)§ 1208 (8th ed., rev. 1, Feb. 2003).



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According to MPEP § 1208:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the type or printed names of the other two appeal conference participants.. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

The Examiner's Answer was not signed or initialed by the SPE or the appeals conference participants. Appropriate correction is required as required under MPEP § 1208.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

1) acquire the appropriate initials or signatures for the appeal conferees for the

Examiner's Answer dated September 22, 2004,

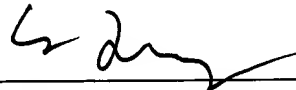
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2) provide the Artifact, identified as 09809678CA (color photo's), to be forwarded to the Board; and

3) for such further action as may be appropriate

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e. abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES



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CRF/dpv

Application No. 09/809,678

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